

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

HIGHWAY MATERIALS, INC.,	:	CIVIL ACTION
	:	
Plaintiff,	:	
	:	
v.	:	NO. 02-3212
	:	
WHITEMARSH TOWNSHIP, et al.,	:	
	:	
Defendants.	:	
	:	

ORDER

AND NOW, this 13th day of December, 2002, it is hereby **ORDERED** that this Court's Order dated December 11, 2002 (Dkt. No. 28) is **VACATED**. Upon consideration of the Motion to Dismiss filed by Defendant Thomas Zarko (Dkt. No. 14) and any responses thereto, it is hereby **ORDERED** that said motion is **DENIED IN PART and GRANTED IN PART**. All claims brought by Plaintiff Highway Materials, Inc. against Thomas Zarko in his official capacity are hereby **DISMISSED** as agreed to by Plaintiff. See Plaintiff's Mem. of Law in Opp. to Def. Thomas Zarko's Mot. to Dismiss, 11 FN 1.

BY THE COURT:

ROBERT F. KELLY, Sr. J.